

MINUTES
City Council Legislative Subcommittee
Friday, January 27, 2023 at 9:00 a.m.
Conference Room A, 1 Junkins Ave., Portsmouth, NH

In attendance (Live): Mayor McEachern; Assistant Mayor Kelley; Councilor Tabor; Councilor Cook (joined at 9:28 a.m.); City Manager Conard; Assistant City Attorney Ferrini

I. Greeting: Mayor McEachern began the meeting at 9:15 a.m.

II. Approval of October 21, 2022 Minutes

Councilor Tabor moved, and Assistant Mayor Kelley seconded, a motion to approve the minutes of October 21, 2022. The Committee voted unanimously to approve the minutes.

III. Review of adopted Legislative Principles and Procedures for Testimony

Assistant City Attorney Ferrini explained that the Legislative Principles and Procedures for Testimony were approved in February 2022 and were included for the Committee's consideration in the event they felt they needed to revisit these Principles and Procedures if bills of interest to the City do not align with the Principles. Assistant City Attorney Ferrini further explained that given the almost even split of Republicans and Democrats in the House, Committee recommendations will be much less effective than they have been in the past. She further explained that given that there are over 1,100 bills this session, Representatives typically follow their party's recommendations on bills outside their own Committee. Therefore, House votes will be dependent upon who physically shows up for votes this each session.

IV. Update on bills heard in Committee this week and other bills of interest

The Committee discussed several housing bills proposed by Senator Perkins Kwoka: SB 145, the Housing Champion bill; SB 244, Housing Opportunity Zone bill; and SB 47, a bill that establishes a Commission to Study Housing Density. A copy of SB 145 was not available to the Committee for discussion. Attorney City Ferrini believed that SB 145 contained language which would enable municipalities to require a particular percentage of new construction to be devoted to workforce housing and would report back. The Mayor stated the Committee should review SB 145 before they could endorse the bill. Assistant City Attorney Ferrini said that none of those bills were scheduled for hearings yet and would report back to the Committee. Assistant City Attorney Ferrini reported that the City had signed in support but did not submit written testimony for HB 50 and HB 555. HB 50 is a bill that would reinstate the State's obligations to fund 7.5 percent of retirement contributions on behalf of Employer for teachers, police and fire. Last year there was a bill

that used the State's surplus funded a one-time contribution of 7.5 percent of the employer's contribution for teachers, police and fire. However, HB 50 reinstates that 7.5 percent contribution from the State on an annual basis. The Committee discussed that originally the State was obligated to pay 35 percent of the retirement contributions for employers. Relative to HB 555, the bill supports using the State's surplus to payoff the unfunded accrued liability of the retirement system. The Committee discussed supporting both of these bills given the financial impact employer's contributions to employee's retirement are to the City's budget.

Assistant City Attorney Ferrini reported that the City had submitted written testimony in support of SAG's funding regarding HB 311. The Committee discussed HB 647, which is a wholesale elimination of governmental immunity. Assistant City Attorney Ferrini discussed the fiscal impact this bill would have throughout cities and towns. She reported that she reached out to Mike Ricker, one of the attorneys for Primex, the City's insurance carrier. He explained that premiums would increase substantially for insurance because the risk pool, given the expansion of types of litigation and monetary damages and attorney fees the bill allows, would increase. Assistant City Attorney Ferrini stated that NHMA is opposing this bill and that the City signed in opposition but did not submit any written testimony and would watch this bill as it progressed. Councilor Cook made the analogy that this bill would have the effect similar to states where there are no limits of liability on the healthcare profession, noting that those states lose practitioners. The Committee agreed to oppose this bill and to continue to monitor it.

The Committee discussed the hotel occupancy fee bill, SB 262. Assistant City Attorney Ferrini stated that a hearing has been scheduled at 10:45 A.M. in front of the Senate Ways and Means Committee on February 1, 2023. The Mayor stated that he would be traveling to the hearing and providing testimony to the Committee in support of the bill. The Committee discussed the history of the hotel occupancy bills over the last several years. The Committee discussed questions past Committees had raised relative to the administration of this fee and if property taxes were sufficient to pay for the necessary infrastructure necessary to support tourism. The Committee discussed that this was enabling legislation so that only those cities and towns that would benefit from this legislation would enact it. Assistant Mayor Kelley noted that there were some limitations on the number of days to assess the fee and prohibition on charging the fee for occupancies of \$40 a night or less. Assistant City Attorney Ferrini also mentioned there was another lobbying bill this session, but that was primarily geared towards town. The Committee also discussed HB 361, which would permit the Speaker to appoint to the Pease Board a representative of Rye/Newcastle. The Mayor gave some history of the board representation in the past and noted how the municipal service agreement has worked historically. He stated that he would support reinstatement of Portsmouth's one-half seat, which was lost, and Councilor Tabor agreed that Portsmouth's representation had been diluted over the years. The Committee also discussed HB 292, which is a bill that would assess criminal

penalties against a public servant who authorized payment for legal services outside of the public or nonpublic session.

Assistant City Attorney Ferrini and the Committee discussed several bills regarding the legalization of cannabis. HB 544 would distribute 50 percent to the general fund and 50 percent to municipalities. House Bill 639 would contribute 80 percent of the funds to pay off the unfunded accrued liability for the retirement system and after that is paid, 80 percent would go into the education trust fund. That bill also included the payment of meals and rooms tax, which was an issue raised at the last meeting by Assistant Mayor Kelley. HB 643 would distribute 50 percent of the funds to the education trust fund and 50 percent to health and human services. Most of the bills also had a provision that would permit a municipality to limit how many dispensaries they would permit in their city or town. The Committee agreed to wait and see what bill would come out of Committee, and Assistant City Attorney Ferrini will reach out to Representative Murray on the Finance Committee to see which of these three (3) bills relative to legalization of cannabis is likely to move forward and will bring back to the Committee for discussion.

The Committee was asked by the City of Nashua to support SB 221, which is a tax exemption for nonprofit and for profit childcare centers. Assistant City Attorney Ferrini contacted the City's Assessor who had two (2) issues with the bill. The first was that it is unusual to provide a tax exemption to a for-profit business and a second was that it may open the door to other types of for-profit businesses seeking exemptions. Councilor Cook discussed the problems with childcare in the City, basically explaining that the tax exemption could work to reduce childcare providers' expenses so they could use those funds to pay, attract and retain workers. The Committee confirmed that SB 211 increases local control as it is enabling legislation. Councilor Tabor moved, and Councilor Cook seconded, a motion to support SB 211. The motion passed unanimously.

Assistant Mayor Kelley noted the following bills of interest that the City should track:

- HB 44, a bill that addresses upzoning, where a single-family home could be permitted to have four (4) units;
- HB 422, which gives municipalities limited control relative to rent increases;
- HB 93, a bill that would permit municipalities to reduce speed limits seasonally;
- HB 311, funding for state wastewater to municipalities; and
- SB 138, funding for PFAS remediation.

The Committee then discussed the numerous bills that addressed tenants' rights: HB 95, relative to tenant's rights to break a lease; HB 401, which is based on the owner's intent to renovate property; HB 422, requiring landlords to post their rent at the Registry of Deeds; HB 469, preventing discrimination of those with particular housing vouchers; and HB 567, which increases the length of notice of eviction depending on the term of the tenancy.

The Mayor gave the Committee an update on a meeting regarding homelessness with the Mayors throughout the State. He reported that the City has approximately 100 beds through Crossroads House and Operation Blessing and noted that Manchester only has 174 beds. He learned that the City of Concord refuses to take State money because they would then be required to move their shelter on "211" list, which is a list run by the United Way for shelters. The State has allotted 4-million dollars to the homelessness issue in the state. By way of comparison, the Mayor noted that the budget for Crossroads is approximately 2-million dollars a year. The Mayor further reported that he did not sign onto a Mayors' letter to the Governor regarding homelessness because it appeared politically charged, was focused on Manchester, and he did not have the statistics on Portsmouth prior to the date that the letter was sent. The Mayor also noted that in April and June a prohibition against evicting hotel occupants would be lifted. He further noted that there is a distinct difference between how Strafford County and Rockingham County reserved hotel rooms for their homeless population. Strafford County pays six (6) months in advance for hotel rooms and the Rockingham County pays on a case-by-case basis.

Councilor Cook brought up the issue that we do have homeless throughout the City and some of them are not just in encampments but in their cars and our parks. The Mayor discussed that at a recent PTS meeting the police reported back that we have laws on the books that can address particular negative behaviors if they exist. Assistant City Attorney Ferrini mentioned that at the next PTS meeting the Committee was going to consider a prohibition against camping on City streets.

V. Adjournment.

Assistant Mayor Kelley moved to adjourn. The motion was seconded by Councilor Tabor. The meeting adjourned at 10:29 a.m.